

Tiffany & Company
Reissue Application No.: 10/626,376
Reissue of Patent No.: 6,363,745
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D. Amendment to drawing figures

No amendments to the drawing Figures are proposed.

E. Remarks

Reconsideration and allowance in view of the amendments made and comments which follow are respectfully requested.

Claims 1-23 were pending. No claims are being amended. Claims 1-23 are still now pending.

In the Office Action the Examiner rejected claims 1-3, 9, 11, 15 and 21 as allegedly anticipated by French Patent No. 324,092. The Examiner also rejected claims 4-8, 10-14, 16-19 and 23 as being allegedly obvious over the French Patent combined with Johnson U.S. Patent No. 5,072,549, and claims 20 and 23 as allegedly obvious over the French Patent, Johnson and U.S. Patent No. D369,758 to Remidio.

As described in the patent specification, there are three basic cutting styles, which are (1) step-cut, (2) brilliant cut, and (3) hybrid or mixed cut, which is a combination of the step and brilliant cuts.

Applicant uses the term "mixed-cut" in the conventional manner to refer to a cutting style having both step-cut and brilliant-cut facets. The term is typically used to refer to a stone having (1) all step-cut facets in the pavilion and all brilliant-cut facets in the crown, or (2) all step-cut facets in the crown and all brilliant-cut facets in the pavilion. The French Patent No. 324,092 relates to an step-cut stone having only steps throughout its crown and pavilion. Because this French Patent has only step cuts, and no brilliant cuts, it is considered by those in the art as a step-cut design, and not a brilliant cut or hybrid (or mixed) cut.

All of the claims 1-3, 9, 11, 15 and 21, which have been rejected as allegedly anticipated by the French Patent, recite in the preamble that the cut is a "mixed-cut". Accordingly these claims are not anticipated by the French Patent.

Claims 4-8, 10-14, 16-19 and 23 have been rejected as allegedly obvious over the French Patent in view of U.S. Patent No. 5,072,549 to Johnson. The Examiner alleged that the claimed features

not disclosed by the French Patent were disclosed by Johnson, and that "It would have been an obvious design choice to a person having ordinary skill in the art to modify the French Patent's pavilion faucets to include [the claimed feature] in order to change the aesthetic appearance of the gemstone to improve its marketability and value to prospective customers."

Applicant respectfully disagrees, and respectfully traverses this rejection. The French Patent is a simple step cut design in both the crown and pavilion, and is viewed in the art as being exclusively a step cut stone. The Johnson Patent is a brilliant cut design in both the crown and pavilion, and is viewed in the art as being exclusively a brilliant cut stone. Applicant urges that one of ordinary skill in the art would not be motivated to modify the exclusively step cut design of the French Patent by taking away its entire step cut pavilion and replacing it with the brilliant pavilion of the Johnson Patent. The French Patent step cut design and the Johnson Patent brilliant cut design have different design objectives and have acquired different status in the art. Moreover, the French Patent relates to a cut-cornered stone having four sides and four corners in the crown and pavilion, whereas the Johnson Patent relates to a five sided or pentagonal stone in the crown and pavilion. In view of these differences, applicant urges that one skilled in the art would not be motivated to combine these references.

With respect to the rejection of claims 20 and 23, which have been rejected as allegedly obvious over the French Patent combined with Johnson and U.S. Patent No. D 369,758 to Remidio, applicant refers to the same arguments above regarding the non obviousness of combining the French Patent with the Johnson Patent.

The Remidio Patent does not overcome the efficiencies of the French Patent with the Johnson Patent, with respect to the propriety of combining an all step-cut cut-cornered stone (of four sides and four corners) with a five sided all brilliant cut stone.

In view of the foregoing, applicant believes that the application is in condition for allowance, and such action is earnestly solicited.

If a telephone interview would be of assistance in advancing prosecution of the subject

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application, applicant's undersigned attorney invites the Examiner to telephone him at the number provided below.

No additional fee is deemed necessary in connection with the filing of this Response. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

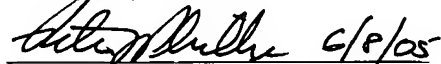
Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Peter J. Phillips Date
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